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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/579,426	05/12/2006	Richard A. Rafferty	VM002	7883
54698 7590 04/12/2011 RAYMOND R. MOSER JR., ESQ. MOSER IP LAW GROUP 1030 BROAD STREET SUITE 203 SHREWSBURY, NJ 07702				
EXAMINER				
LE, HUYEN D				
ART UNIT		PAPER NUMBER		
2614				
MAIL DATE		DELIVERY MODE		
04/12/2011		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/579,426

**Applicant(s)**

RAFFERTY, RICHARD A.

**Examiner**

HUYEN D. LE

**Art Unit**

2614

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03 November 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 21-23, 25, 26, 37-41, 43 and 45-52 is/are pending in the application.
- 4a) Of the above claim(s) 37-41, 43 and 45-49 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 21-23, 25, 26 and 50-52 is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 37-41, 43 and 45-49 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **Conclusion**

1. This application is in condition for allowance except for the following formal matters:

This application contains claims 37-41, 43, 45-49 drawn to an invention nonelected with traverse in the reply filed on 11/03/10. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

Prosecution on the merits is closed in accordance with the practice under Ex parte Quayle, 25 USPQ 74, 453 O.G. 213, (Comm'r Pat. 1935).

A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.

### **Allowable Subject Matter**

2. Claims 21-23, 25, 26 and 50-52 have been allowed.

### **Election/Restrictions**

3. Applicant's election with traverse of claims 21-23, 25, 26 and 50-52 in the reply filed on 11/03/10 is acknowledged. The traversal is on the ground(s) that independent claim 37 recites limitations similar to that of independent claim 21 and 50. This is not found persuasive because Group II (claims 37-41, 43 and 45-49) is drawn to an apparatus comprising a funnel disposed about an opening of a receiver to guide a receiver tube to the opening. There would be a serious search and/or examination burden if restriction were not required because the search required for Group I is not required for Group II (note the Requirement for Restriction/Election mailed

10/04/10). The Applicant should note that if the limitations in independent claims 21 and 50 are found allowable, the examiner does not have to search for the limitations of the structure of the funnel as claimed in independent claim 37 or dependent claims 51 and 52.

The requirement is still deemed proper and is therefore made FINAL.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to HUYEN D. LE whose telephone number is (571) 272-7502. The examiner can normally be reached on 9:30AM-6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, DAVETTA GOINS can be reached on (571) 272-2957. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/HUYEN D. LE/  
Primary Examiner, Art Unit 2614

HL  
April 7, 2011

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